

1 A. The same conversations with
2 everyone. Just questions -- when I was new
3 there, I had asked the bar manager, I think his
4 name was Eddie also. I've asked basically what
5 the minimum rate was, if we were getting an
6 hourly rate. And basically he just laughed at
7 me.

8 Q. What did you say to him?

9 A. I asked him; I said, do we get a
10 paycheck also on top of the tips? Is there a
11 minimum wage; what's the story? And basically,
12 his response was to laugh.

13 Q. Did he say anything at all?

14 A. No, that's it.

15 Q. So he didn't respond to you at all
16 other than laughing?

17 A. He laughed and walked away.

18 Q. Did you ask any other manager of the
19 club about these issues?

20 A. I think I had asked Sheldon about
21 it, and he also didn't say much.

22 Q. Well, what did he say?

23 A. Basically, I can't remember off the
24 top of my head. But basically, it was the same

1 thing, like a non-committal answer, and just
2 walked away.

3 Q. Did you ever follow up with either
4 of them after that?

5 A. I can't remember that I did. I
6 mean, I had called the club on occasions like the
7 next year, when I was trying to get like my W2
8 and that kind of thing. I called to follow up a
9 couple of times on that.

10 Q. When did you make those calls?

11 A. It was probably the January after I
12 had worked there.

13 Q. And when did your employment with
14 the club end?

15 A. I think -- I believe it was in March
16 of that year, was it '06 or --

17 Q. So you were referring to January of
18 '07 --

19 A. Yeah.

20 Q. -- when you made these calls?

21 A. Yeah.

22 Q. And who did you call?

23 A. I called the office. I don't
24 remember who I spoke to.

1 Q. Did you ask for anyone in
2 particular?

3 A. No. I just asked about W2s. If we
4 even had W2s because I wasn't sure. Just to my
5 knowledge, there was no documentation of hours we
6 worked or what we made. So I wasn't even sure I
7 was going to get a W2. So I talked to whoever
8 the receptionist was.

9 Q. A woman?

10 A. Yeah. I mean, I called like
11 probably three or four times.

12 Q. And what was the response that you
13 got?

14 A. Initially, I'm not -- I don't
15 remember. But eventually, I mean they said they
16 were sending them out.

17 Q. Okay. And did you receive it?

18 A. Yes. I did receive a W2.

19 Q. When did you receive that?

20 A. I'm not sure. Probably at the end
21 of January, I think, of that year.

22 Q. Do you recall any specific
23 conversations you had with Philip or Joe
24 concerning the issues raised in your complaint?

1 couldn't find anything. Sorry.

2 Q. What about paychecks that you
3 received from the 40/40 Club?

4 A. I don't recall ever receiving a
5 paycheck.

6 Q. And are you referring to both wages
7 and checks for parties that you might have
8 worked?

9 A. Right.

10 Q. You don't recall receiving either?

11 A. No.

12 Q. You submitted a declaration in
13 support of plaintiffs' motion for conditional
14 certification; correct?

15 A. I'm sorry?

16 Q. You submitted a declaration in
17 support of a motion that plaintiffs were filing?

18 A. Yes.

19 Q. I'm going to show you what's been
20 marked as Pownall Exhibit A.

21 A. Uh-huh.

22 Q. Is this the declaration that you
23 submitted?

24 A. Yeah. Yes, it is.

1 Q. Well, I asked you both during and
2 subsequent.

3 A. I'm sorry. I had asked the same
4 thing -- the same time I had asked about
5 paychecks; I had asked about W2s.

6 Q. Who did you ask?

7 A. I believe Eddie, the bar manager.

8 Q. Are you sure Eddie was a manager?

9 A. He introduced himself to me as the
10 manager of the bar.

11 Q. Why would you ask about W2s before
12 the end of the year?

13 A. Because I wasn't even sure -- I had
14 to do my taxes sometime. So I wasn't even sure
15 if anything was being declared.

16 Q. Are you currently employed?

17 A. Yes.

18 Q. And where?

19 A. Starbucks.

20 Q. And what's your job there?

21 A. I'm an assistant manager.

22 Q. And when did that employment begin?

23 A. While I was working at 40/40 Club.

24 Probably February or March of that year.

1 A. I don't recall.

2 Q. Do you have an estimate?

3 A. Not currently.

4 Q. Are there documents that would
5 refresh your recollection as to the amount?

6 A. I would have to see the written
7 policies, I guess.

8 Q. Did the club ever retain any of your
9 tips if you didn't properly follow a credit card
10 procedures?

11 A. There was a time when the credit
12 card didn't go through or something like -- he
13 didn't -- maybe I didn't take an imprint or
14 something correctly, and it didn't go through.
15 And my tips were retained to cover the bill.

16 Q. By who?

17 A. Again, by Sheldon.

18 Q. Is that now -- your tips were
19 retained to cover the whole bill?

20 A. Right.

21 Q. How much was that?

22 A. I don't recall.

23 Q. Did you ever ask for that money
24 back?

1 A. It's possible.

2 Q. Did the club ever require you to pay
3 for breakage or spills?

4 A. Not personally.

5 Q. Are you aware of that occurring to
6 anyone else?

7 A. I've heard of it happening.

8 Q. From who?

9 A. From the other bartenders.

10 Q. From who, specifically?

11 A. From Joe, he had told me about it.

12 Q. What did he tell you?

13 A. That another bartender had like
14 almost broken a glass or something, or a bottle
15 one time. And they -- he had said that be
16 careful because if you break it, you'll have to
17 pay for it. You'll have to pay for the whole
18 bottle.

19 Q. Did he tell you what he was basing
20 that knowledge on?

21 A. He just -- from prior experience.

22 Q. Did he say that it happened to him?

23 A. No.

24 Q. And you never saw this happen to

1 received a paycheck from the 40/40 Club during
2 your employment?

3 A. Right.

4 Q. Did you ever ask anyone for a
5 paycheck or a pay stub?

6 A. I had asked Sheldon about that party
7 to ask to see if there was something. And I
8 asked Eddie if we received paychecks.

9 Q. Other than about the party?

10 A. Right. That's when I asked Eddie
11 about -- like one of my first days, if we receive
12 paychecks regularly. If we don't make like the
13 state minimum or whatever, the hourly minimum
14 wage was.

15 Q. But you didn't get a response from
16 Eddie?

17 A. Right.

18 Q. You never asked anyone else?

19 A. I asked other bartenders, yeah.

20 Q. And what did they say?

21 A. They said they've never received a
22 paycheck.

23 Q. Were you aware that there was a box
24 of checks in the 40/40 Club office?

1 MR. FREDERICKS: Objection.

2 A. For like the parties and everything
3 or just for the --

4 Q. Were you aware there was a box of
5 checks?

6 A. Yes.

7 Q. And there were on occasion checks in
8 there for you?

9 MR. FREDERICKS: Objection.

10 A. Every time I asked --

11 Q. Did you ever look in the box?

12 A. I did not have access to that box.

13 Q. It was in an office?

14 A. Right.

15 Q. Did you ever ask to look through the
16 box?

17 A. I asked the management for, if I had
18 a check. I had asked Sheldon.

19 Q. About the party check?

20 A. About -- I mean I asked him if I had
21 any checks.

22 Q. So you did?

23 A. Yeah, I assumed they were in the
24 same place.

1 A. Correct.

2 Q. And you --

3 A. But I had asked other bartenders and
4 servers about W2s. They told me that they had
5 never received one. And then the only way I
6 received mine was calling the office.

7 Q. So you asked for it, and they sent
8 it to you?

9 A. (Witness nods head.)

10 Q. You also have a policy here attached
11 as Exhibit D. When did you first see this
12 document?

13 A. Probably the same time I filled out
14 the W4.

15 Q. In your declaration, you said a
16 patron of the 40/40 Club did not sign their
17 credit card receipts. Defendants retained the
18 disputed tips for 90 days. Defendants gave me a
19 copy of this policy as attached as Exhibit D.
20 Where does it say that defendants would retain a
21 tip for 90 days?

22 MR. FREDERICKS: Objection.

23 Q. Does it say that?

24 A. No, it does not say that on this